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U.S. DISTRICT COURT  
MIDDLE DISTRICT OF TN

Kay-lynn Franklin  
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Pegram, TN 37143  
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FEDERAL DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

KAY-LYNN FRANKLIN

Plaintiff,

vs.

THE KROGER COMPANY

Defendant

Case No.:

2000E-2000E-5

**3 13 0231**

COMPLAINT AND JURY DEMAND

Plaintiff, Kay-lynn Franklin hereby complains against the Defendant, The Kroger Company as follows:

STATEMENT OF CLAIM

1. This is an action to vindicate violations of the Plaintiff's civil rights and redress the unlawful and discriminatory conduct and employment practices of the Defendant. This action arises out of the illegal and wrongful actions against Kay-lynn Franklin with regards to a hostile work environment, refusal of training and unequal treatment based in whole or in part upon her gender and/or age in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 21 Sections 2000 e-2000e5.

JURISDICTION

THIS ACTION IS BROUGHT PURSUANT TO 2000E-2000E-5

1. which prohibit discrimination in employment based on sex/age.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

2. Plaintiff has exhausted her administrative remedies in accordance with 42 U.S.C. Section 2000e-16© in that she filed an Administrative EEOC Complaint on 8/24/11 asserting that she was affectively threatened with termination based on her age and sex. Plaintiff has received her Right to Sue letter on Dec 17<sup>th</sup>, 2012.

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1                                   FACTS GIVING RISE TO PLAINTIFF'S CAUSE OF ACTION

2           3. Plaintiff is a 51 year old female who was hired by THE KROGER COMPANY on December  
3           8<sup>th</sup>, 2008 and entered into the Kroger Management Training Program. Plaintiff was assigned  
4           to store #523 in Dickson, TN as a co-manager. Ms. Lisa Youngblood was the current store  
5           manager and Ms. Stone was the subsequent store manager. Mr. Spence was a co-manager.  
6           Mr. Young was a co-manager.

7           4. At all relevant times hereto, Plaintiff performed her duties as a co-manager in a fully  
8           successful manner. Plaintiff's work was at least comparable in quality to, if not better than,  
9           that of her co-workers. Store performance is well documented as being highly successful at  
10          over 1mil a week in sales.

11                 a. Plaintiff presented a project to the zone staff for a KIDS CARD program which was  
12                 authorized to be started at the Dickson store and was highly successful. Plaintiff made  
13                 a follow-up video to present to the zone staff but was repeatedly refused an audience  
14                 to present her results.

15          5. At all times during her employment at the Dickson store (except for her first 3 months of  
16          employment), Plaintiff was the only female co-manager for the entire three years she was  
17          employed.

18          6. From Plaintiff's first day of employment at the Dickson store her work was subjected to a far  
19          more intense level of scrutiny that other male co-managers and male dept. managers at the  
20          store. On the Plaintiff's second day at work, the store manager, Ms. Youngblood stated that  
21          Plaintiff had better "step it up" if she wanted to make it into management. She was  
22          consistently put on Performance Improvement Plans based on facts that were subjective and  
23          unjustified. Plaintiff met every goal on every PIP but was not allowed to present the results,  
24          but instead was always put on another PIP in order to prevent promotions, pay raises, and  
25          movement into a store manager position. Every PIP was accomplished and documented but  
26          Plaintiff was repeatedly put on another PIP.

27                 a. Plaintiff had written up a disciplinary form for an employee and was to deliver it the  
28                 next day, however, Ms. Youngblood closed her office doors and delivered it

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1 privately without informing the Plaintiff. Subsequently in the Plaintiff's Performance  
2 Review, Ms. Youngblood stated that Plaintiff was not "comfortable" delivering the  
3 write up. Plaintiff stated that was absolutely false and Plaintiff was not even allowed  
4 to be in the office when it was delivered thus depriving Plaintiff of valuable training  
5 on delivering discipline to union employees.

6 7. In March of 2010 Plaintiff was given a performance review and a PIP. (A performance  
7 Improvement plan that was supposed to be revisited at 30/60/90 day intervals.) The reviews  
8 were not done until 7 months later and Plaintiff was given a MEETS EXPECTATIONS  
9 evaluation on 10/10/10. In July 2011 Ms. Lisa Youngblood, store manager, delivered  
10 Plaintiff's performance review and it was marked MEETS EXPECTATIONS. 4 months later,  
11 a new store manager, Ms. Leslie Stone, delivered an ANNUAL performance review and once  
12 again put Plaintiff on another PIP with items that were unattainable, unreasonable and without  
13 merit. Plaintiff was told to tell other associates that this was a "lunch meeting" and not a view.  
14 Items on this review were based on the previously demoted store manager's comments an not  
15 on Plaintiff's record.

16 a. Turn in 120 safety cards every period. This is a voluntary program and Plaintiff  
17 cannot force employees to fill them out. It is unreasonable and not a performance  
18 issue as ALL co-managers are supposed to assist in promoting the program but no  
19 male co-manager ever turned one in or filled one out.

20 8. According to the company training manual, store managers are required to go over all  
21 performance reviews before they are actually delivered at the zone office. All male co-  
22 managers had their reviews covered with Ms. Youngblood and Ms. Stone, however, Plaintiff's  
23 was not. Plaintiff also alleges that the store managers, Ms. Youngblood and Ms. Stone altered  
24 her performance review without her knowledge or consent.

25 9. Plaintiff was repeatedly given long lists of benchmarks and tasks to complete in addition to her  
26 regular duties. Male co-managers were not required to provide statistical proof of their goals.  
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28

1 10. Plaintiff was instructed by Ms. Stone that she was not allowed to order product or adjust  
2 inventory which is part of a co-managers job description. This restriction was not put on male  
3 co-managers.

4 a. One of the mandates on Plaintiff's PIP was to "improve in-stock position". Since  
5 Plaintiff was restricted from ordering, this goal could not be attained.

6 11. Plaintiff was instructed by Ms. Stone that she was not allowed to contact or email anyone in  
7 the company above zone staff level, and then only with permission. This restriction was not  
8 put on male co-managers and also precluded Plaintiff from doing her job.

9 12. Male co-managers were allowed to come to work with regular Kroger t-shirts on to do work,  
10 however, Plaintiff was instructed she was never to wear a Kroger shirt as it was  
11 "unprofessional"

12 13. Plaintiff repeatedly reported a male co-manager (Mr. Spence) for taking money from the  
13 customer service desk and not returning it thus making it impossible to balance the front end  
14 over which she was responsible for. Mr. Spence was later fired for theft after Plaintiff  
15 resigned under threat of dismissal.

16 a. Reported male dept head for having the store secretary change his time in the payroll  
17 system on a daily basis but no discipline was ever issued. These events were  
18 documented, scanned and sent to corporate security.

19 b. Reported same male dept head for returning baby formula that he had purchased with  
20 EBT card and returning them to customer service for cash but no discipline was  
21 issued. This event recorded on store cameras and was reported to Corporate security.

22 14. Plaintiff's private Performance Review was put in the IN box in the back room where any  
23 employee could access and read it. This is part of the hostile work environment.

24 15. Plaintiff was subjected to humiliation by being called out at a store meeting and ordered to  
25 only smoke in the back of the store by the dumpster. All other employees were allowed to  
26 smoke in the smoking area in front of the store (including co-managers at all other Kroger  
27 stores). This is part of the hostile work environment.

1 16. Plaintiff states that store management and district staff did not follow the company policy  
2 training manual with regards to delivering performance reviews or training opportunities.

3 a. Plaintiff was denied training and relegated to menial tasks. Mr. Spence was put in  
4 charge of SALES/SHRINK and Mr. Young who was just off the training program  
5 was put in charge of KEY RETAILING. These are highly visible expert positions.  
6 Plaintiff was put in charge of "store cleaning" even though she had seniority. The  
7 Kroger training program mandates that co-managers be moved around to different  
8 departments in order to complete their "on the job" training and move up to store  
9 manager. Plaintiff was left in charge of the Front End for all 3 years except for the  
10 last 3 months of employment. Not only was this detrimental to Plaintiff's training, it  
11 was against Kroger Policy, which states that only the store manager was to be in  
12 charge of the front end. When Ms. Youngblood was demoted to co-manager and sent  
13 to Clarksville, Mr. Spence stated to Plaintiff "why don't you take Deli/Bakery" and  
14 Mr. Young will be over produce and meat. 2 weeks later when Ms. Stone arrived  
15 she put Plaintiff over Deli/Bakery AND meat giving her 3 departments to be over  
16 while Mr. Young only had Produce.

17  
18 17. Plaintiff was not communicated with by the store manager and was instructed by Ms. Stone  
19 that she was not allowed to call or text her with any questions unless the store was on fire.

20  
21 18. When Ms. Stone became store manager in June of 2011 she informed Plaintiff that her  
22 department was to be 100% perfect (in key retailing standards) by the time she returned from  
23 vacation. This goal was not put on any male co-manager and was virtually non-attainable in  
24 the two weeks time frame. No other store had accomplished this task in the past year.  
25 Ironically, Plaintiff's Deli/Bakery received a 7 out of 8 score and my meat depart received a  
26 perfect score when it was evaluated the day after Plaintiff left the company.

27 19. Plaintiff was denied training and mentoring by management.  
28

- 1 a. Ms. Youngblood and Ms. Stone would walk the store with all male co-managers,  
2 have meetings in her office, giving guidance, discussing salesplans, training them  
3 how to do inventory etc. Neither store manager ever walked Plaintiff around the store  
4 to give training even after it was requested in writing, nor was Plaintiff invited to  
5 discuss store management with either store manager.
- 6 b. Mr. Spence was put in charge of inventory all 3 years Plaintiff was a co-manager.  
7 Plaintiff was assigned the task to clean under the shelves all three years. Mr. Young  
8 was trained in annual inventory by Mr. Spence. Plaintiff was again charged with  
9 cleaning under shelves.
- 10 c. After Mr. Spence failed to enforce the tardy and absence write-ups, Plaintiff was  
11 given the task and delivered 84 write-ups. This task was then given back to Mr.  
12 Spence by Ms. Stone and all employees got to start over with a clean slate,  
13 undermining Plaintiff's management standing and negating all the previous work.  
14 Being a union shop, these write-ups are crucial.
- 15 d. Store manager's meetings are on Mondays. Plaintiff was purposely not scheduled on  
16 that day so she was not allowed to run the manager's meetings. Plaintiff was  
17 scheduled only 3 times in the 3 years at the store in order to facilitate the meeting.
- 18 e. After Ms. Stone's arrival at the store she set up an "all personnel" meeting to  
19 introduce herself and the store management goals. Plaintiff was not informed of this  
20 meeting by anyone and showed up for her shift to find the meeting already in  
21 progress and humiliated by looking incompetent. Both male co-managers knew of  
22 the meeting and did not inform the Plaintiff.

23 20. EMOTIONAL DISTRESS AND HARRASMENT

- 24 a. Plaintiff had to pursue physiological counseling in order to deal with the stress and a  
25 hostile workplace environment. Plaintiff had to endure being treated with distain and  
26 indifference in front of associates that she was in charge of managing. Plaintiff was  
27 subjected to performance goals that were not attainable under threat of termination.  
28

1 b. 3 weeks after arriving at the Dickson store, Plaintiff was accused by Mr. Spence  
2 and Ms. Youngblood of alcohol consumption at 9:30 in the morning. Plaintiff was  
3 escorted out of the store to the local emergency room for testing and was required to  
4 have her son pick her up from the hospital and sent home. Plaintiff waited at home for  
5 over 2 weeks and required to return to the hospital and deliver the results to the store  
6 manager. The results were negative. Ms. Youngblood assured Plaintiff that this  
7 would not be disclosed to any other store associate and not affect her performance  
8 reviews, however, after two weeks of absence, everyone in the store knew about it  
9 and the Plaintiff was humiliated after being falsely accused. Plaintiff states she has  
10 never used alcohol at any time while on duty at this or any previous job. This is part  
11 of the hostile work environment.

12 c. Because of all of the above actions, humiliation, threats and discrimination,  
13 Plaintiff left her employ at Kroger causing extreme emotional, mental and financial  
14 distress.

15  
16 WHEREFORE, Plaintiff prays for judgement against defendant as follows:

- 17 1. Awarding compensatory damages in the amount of \$ \$250,000.00
- 18 2. Awarding punitive damages in the amount of \$200,000.00
- 19 3. Awarding costs to Plaintiff
- 20 4. Awarding pain and suffering in the amount of \$150,000.00
- 21 5. Injunctive relief as follows: To be allowed to present the Kroger Kids Cards  
22 project results to John Hackett who is the president of Kroger and the marketing  
23 and loyalty staff in Cincinnati as Mr. Hackett was the person who authorized the  
24 project and never got to see the successful results. Plaintiff spent over two years  
25 on the project.
- 26 6. Enjoining defendant from targeting female co-managers to be held to a higher  
27 standard than their male counterparts and to insure all female co-managers are  
28 given the same formal and on the job training as their male counterparts and that

1 evaluation reviews are conducted according to the company policy manual in a  
2 consistent and timely manner.

3 7. Awarding such other and further relief as the court may consider proper.  
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6 Dated this 15 of March, 2013  
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10   
11 Plaintiff

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13 1020 Deerfoot Dr  
14 Pegram, TN 37143  
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